

REMARKS

The Information Disclosure Statement (IDS) filed August 28, 2009 listed a Japanese reference that was cited in a foreign Office Action. The Examiner did not initial next to the Japanese reference listed in the Form PTO-1449 of the IDS because no English-language translation of the Japanese reference was provided. However, the English-language translation of the foreign Office Action, submitted with the IDS, qualifies as a statement of relevance of the Japanese reference (see MPEP §609.04(a)(III)). Accordingly, the Examiner is kindly requested to consider and initial next to the Japanese reference listed in the IDS August 28, 2009, and to return to the undersigned a fully-initialed copy of the Form PTO-1449.

Favorable reconsideration of this application is respectfully requested in view of the following remarks.

Claims 1-3, 5, 6, 9-18, 22, 23 and 26-35 are pending in this application. By this Amendment, Claims 1, 5, 10, 12, 15, 16, 23 and 26-29 are amended, and Claims 30-35 are added. Claims 1, 10-12, 15, 16 and 23 are independent. Support for the amendments to Claims 1, 5, 16 and 26-29 can be found, for example, in Fig. 1. Claims 10, 12, 15 and 23 are amended to be in independent form. Support for Claims 30-32 can be found, for example, in original Claim 10. Claim 33 corresponds to the original version of Claim 12. Support for Claims 34 and 35 can be found, for example, in Fig. 2. No new matter is added.

Applicants appreciate the Examiner's indication that Claim 11 is allowed, and that Claims 10, 12, 15 and 23 recite allowable subject matter and would be allowable if rewritten in independent form including all of the features of the base claim and any intervening claims. As discussed above, Claims 10, 12, 15 and 23 are rewritten to be in independent form including all of the features of their respective base claim.

Thus, Claims 10, 12, 15 and 23 are allowable. Applicants note that Claim 10 also is amended to delete "polyacrylate based". This amendment should not affect the allowability of Claim 10 because the Office Action's reasons for indicating allowable subject matter with respect to Claim 10 are directed to the fact that the applied reference teaches away from an acquisition layer that contains super absorbent foam material.

Applicants submit that the remaining claims should be allowed for the reasons discussed below.

The Office Action rejects Claims 1-3, 5, 6, 16-18 and 26-29 under 35 U.S.C. §102(b) over Guidotti et al. ("Guidotti"), U.S. Patent No. 6,037,518; and rejects Claims 14 and 22 under 35 U.S.C. §103(a) over Guidotti. The rejections are respectfully traversed.

Independent Claim 1 recites an absorbent article comprising, *inter alia*, a first storage layer including at least one longitudinally extending aperture having a longitudinal dimension in the longitudinal direction of the article that is greater than a transverse dimension in the transverse direction of the article, the aperture extending through an entire thickness of the first storage layer, and the first storage layer lies between an acquisition layer and a liquid permeable upper surface of the absorbent article. Independent Claim 16 defines an absorbent article including similar features.

Guidotti discloses an absorbent body 3 having a storage layer 12 and a wicking layer 14, and a plurality of cylindrical acquisition wells 13 extending through the storage layer 12 as shown in Figs. 8 and 9 of Guidotti (see also col. 3, lines 36-41 of Guidotti). The Office Action takes the position that the storage layer 12 corresponds to the claimed first storage layer, that the wicking layer 14 corresponds to the claimed acquisition layer, and that the cylindrical acquisition wells 13

constitute longitudinally extending apertures (i.e., the plurality of apertures are arranged to extend longitudinally).

First, however, each of the plurality of cylindrical acquisition wells 13 are circular in plan view as shown in Fig. 8 of Guidotti. None of the cylindrical acquisition wells 13 is an aperture that extends longitudinally in the longitudinal direction of the article. That is, none of the cylindrical acquisition wells 13 is an aperture that has a longitudinal dimension in the longitudinal direction of the article that is greater than a transverse dimension in the transverse direction of the article as defined in independent Claims 1 and 16 at issue here. Moreover, there would have been no need to form one of the cylindrical acquisition wells 13 to extend longitudinally as claimed. This is because the cylindrical acquisition wells 13 are not meant to channel liquid in the longitudinal direction of the absorbent body 3. Guidotti discloses that the cylindrical acquisition wells 13 are *acquisition* components configured simply to receive liquid, while the wicking layer 14 below the acquisition wells 13 is configured to quickly disperse/channel the liquid to unused portions of the absorbent body 3 (see col. 2, lines 28-33; col. 3, lines 36-41; col. 4, lines 41-44; and col. 5, lines 36-39 of Guidotti).

Accordingly, Guidotti fails to disclose or suggest an absorbent article including, in combination with the other claimed features, a first storage layer including at least one longitudinally extending aperture having a longitudinal dimension in the longitudinal direction of the article that is greater than a transverse dimension in the transverse direction of the article, as recited in independent Claim 1 and similarly recited in independent Claim 16. Thus, independent Claims 1 and 16 are patentable over Guidotti for at least these reasons.

In addition, one skilled in the art would recognize and understand that Guidotti's wicking layer 14 is not the acquisition layer in the absorbent body 3. Guidotti explicitly discloses that the acquisition wells 13 and the cover 11 constitute the "liquid acquisition portion" of the absorbent body 3 (see col. 4, line 45 to col. 5, line 48 of Guidotti). On the other hand, the wicking layer 14 consists of a material with high liquid dispersability in order to quickly *disperse* liquid to unused portions of the absorbent body 3 as discussed above. That is, the wicking layer 14 is configured to *disperse* liquid, not *acquire* liquid. Accordingly, the wicking layer 14 is not the acquisition layer in Guidotti's absorbent body 3. Further, it would not have been obvious to one skilled in the art to modify the wicking layer 14 to be an acquisition layer because doing so would inhibit the ability of the wicking layer 14 to quickly disperse liquid to unused portions of the absorbent body 3 as discussed above. That is, such a modification would change the principle of operation of the wicking layer 14 and absorbent body 3 (MPEP §2143.01(VI)), and would render the wicking layer 14 and absorbent body 3 unsatisfactory for their intended purpose (MPEP §2143.01(V)).

Accordingly, as the wicking layer 14 is not an acquisition layer, it can not be said that the storage layer 12 lies between an acquisition layer and a liquid permeable upper surface of an absorbent article as defined in independent Claims 1 and 16. Specifically, Guidotti's storage layer 12 does not lay between the acquisition portion 11, 13 and a liquid permeable upper surface 1 of the absorbent article.

In view of the above, Guidotti fails to disclose or suggest an absorbent article including, in combination with the other claimed features, a first storage layer that lies between an acquisition layer and a liquid permeable upper surface of the absorbent article, as recited in independent Claim 1 and similarly recited in

independent Claim 16. Therefore, independent Claims 1 and 16 are patentable over Guidotti for at least these additional reasons.

Claims 2, 3, 5, 6, 17, 18 and 26-29 are patentable over Guidotti at least by virtue of their dependence from the patentable independent claims. Thus, a detailed discussion of the additional distinguishing features recited in these dependent claims is not set forth at this time. Withdrawal of the rejections is respectfully requested.

The Office Action rejects Claim 9 under 35 U.S.C. §103(a) over Guidotti in view of McBride, U.S. Patent Application Publication No. 2004/0019340 A1; and rejects Claim 13 under 35 U.S.C. §103(a) over Guidotti in view of Olsen et al. ("Olsen"), U.S. Patent No. 5,849,003. The rejections are respectfully traversed.

Claims 9 and 13 are patentable over the applied references at least by virtue of their dependence from patentable independent Claim 1. Thus, a detailed discussion of the additional distinguishing features recited in these dependent claims is not set forth at this time. Withdrawal of the rejections is respectfully requested.

New Claims 30-35 are presented for consideration. Claims 30-33 are patentable over the applied references at least by virtue of their dependence from the respective patentable independent claims.

Claims 34 and 35 recite that the first storage layer directly contacts the liquid permeable upper surface, and the at least one longitudinally extending aperture is empty. Guidotti fails to disclose such a configuration. Thus, Claims 34 and 35 are patentable for at least this reason, as well as by virtue of their dependence from independent Claims 1 and 16, respectively.

Should any questions arise in connection with this application or should the Examiner believe that a telephone conference with the undersigned would be helpful

in resolving any remaining issues pertaining to this application the undersigned respectfully requests that he be contacted at the number indicated below.

The Director is hereby authorized to charge any appropriate fees under 37 C.F.R. §§ 1.16, 1.17 and 1.21 that may be required by this paper, and to credit any overpayment, to Deposit Account No. 02-4800.

Respectfully submitted,

BUCHANAN INGERSOLL & ROONEY PC

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